

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Isaac Forman	Team: Squad #15	CCRB Case #: 201606105	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 07/07/2016 2:00 AM	Location of Incident: § 87(2)(b)	Precinct: 75	18 Mo. SOL 1/7/2018	EO SOL 1/7/2018	
Date/Time CV Reported Sat, 07/09/2016 5:05 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 07/14/2016 11:08 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SSA Robert Martinez	01369	922716	075 PCT
2. POM Matthew Demaio	23579	952663	075 PCT
3. POM Alexis Yanez	23098	953586	075 PCT
4. An officer			075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM David Quattrocchi	15010	952133	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SSA Robert Martinez	Abuse: Sergeant Robert Martinez stopped § 87(2)(b)	§ 87(2)(b)
B.SSA Robert Martinez	Abuse: Sergeant Robert Martinez detained § 87(2)(b)	§ 87(2)(b)
C. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	§ 87(2)(b)
D. An officer	Abuse: An officer threatened to damage § 87(2)(b) \$ property.	§ 87(2)(b)
§ 87(4-b) § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)
§ 87(4-b) § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)
§ 87(4-b) § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)
§ 87(4-b) § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)

Case Summary

On July 9, 2016, a call was placed from the IAB Command Center to § 87(2)(b). It is unclear how this complaint was first brought to IAB's attention. Original Log #16-24312 was generated and it was received by the CCRB on July 14, 2016.

On July 7, 2016, at approximately 2 a.m., § 87(2)(b) was walking in the vicinity of Euclid Avenue heading towards § 87(2)(b) in Brooklyn; when two unmarked police vehicles approached his location. An officer, identified by the investigation as Sergeant Robert Martinez of the 75th Precinct, allegedly stated, § 87(2)(b) "we would like to talk to you it is the police" (**Allegation A**). Sgt. Martinez asked § 87(2)(b) where he was going to and § 87(2)(b) responded § 87(2)(b). § 87(2)(b) alleged that Sgt. Martinez also asked him why he provided a different address during an arrest from a week prior and stated that the officers had been following him for approximately 30 minutes. § 87(2)(b) claimed that he was detained for approximately one hour before being released without being issued a summons (**Allegation B**).

After § 87(2)(b) provided his address, Sgt. Martinez and Police Officer David Quattrocchi travelled to § 87(2)(b) where § 87(2)(b) resides. While outside, an officer allegedly stated "Police, open the fucking door," and then threatened to kick the door down (**Allegations C and D**). Sgt. Martinez and PO Quattrocchi entered the apartment briefly and then travelled back to where § 87(2)(b) was located.

§ 87(2)(g) On August 24, 2016, § 87(2)(b) was interviewed via video-teleconference while he was incarcerated on Rikers Island.

This case was originally assigned to Investigator Alex Tuminello. Due to his departure from the agency, it was reassigned to Investigator Forman on November 10, 2016 for closure.

Mediation, Civil and Criminal Histories

- This complaint was unsuitable for mediation because at the time of his CCRB interview, § 87(2)(b) was incarcerated on Rikers Island. As of November 18, 2016, § 87(2)(b) is not incarcerated.
- A FOIL request was filed with the Office of the New York City Comptroller on November 18, 2016. The results will be added to the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- Without a valid NYSID number, the investigation was unable to look up § 87(2)(b)'s criminal conviction history in the New York State Office of Court Administration database.

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) and the first involving § 87(2)(b) (Encl. Board Review 03 and 10).
- Sgt. Martinez has been a member of the service for 18 years and has been the subject of 91 previous CCRB allegations involving 31 cases. § 87(2)(g) five previous stop allegations have been pled against Sgt. Martinez. In CCRB case number 201101407, a stop allegation was substantiated against Sgt. Martinez. The Board recommended instructions and the NYPD agreed with this recommendation. In CCRB case number 201510169, a stop allegation was substantiated against Sgt. Martinez and Board recommended command discipline. An NYPD disposition is not listed. Additionally, a total of 8 CCRB allegations have been substantiated against Sgt. Martinez. These allegations include discourteous language, physical force, threats of force, frisks, discourteous actions and a search of a person. The Board has recommended command discipline and instructions in regards to these substantiated allegations and the NYPD has only disciplined Sgt. Martinez with command discipline in CCRB case number 200205713 for discourteous language.
- PO Alexis Yanez has been a member of the service for four years and has been the subject of one previous CCRB allegation involving one case which was closed as complainant uncooperative. § 87(2)(g)
- PO Matthew Demaio has been a member of the service for four years § 87(2)(b), § 87(2)(g)

Potential Issues

- The investigation identified § 87(2)(b) as a victim in this complaint based upon the CCRB statement of § 87(2)(b). On September 15, 2016, an unverified telephone statement was obtained from § 87(2)(b). On September 21, 2016 and October 11, 2016, § 87(2)(b) missed two scheduled appointments at the CCRB in regards to providing a verified statement without calling ahead of time to cancel or reschedule. As such, the undersigned was unable to obtain a sworn-statement from her.

Findings and Recommendations

Allegation A: Abuse of Authority- Sergeant Robert Martinez stopped of § 87(2)(b)

§ 87(2)(g)

While it is undisputed that § 87(2)(b) was stopped by members of the 75th Precinct's Anti-Crime unit on July 7, 2016, § 87(2)(g)

§ 87(2)(b) stated that as he walked to meet his friend § 87(2)(b) to provide her with her house keys, he observed an alleged "narcotics unit" down the block in the direction of Liberty Avenue in Brooklyn. When he arrived, § 87(2)(b) was accompanied by § 87(2)(b). He stated that he handed the keys to § 87(2)(b) in order to ensure the unit on the corner saw he was not

handing her anything suspicious. He then walked away from the females because, as he stated, they were acting “happy and giddy,” so he believed them to be under the influence of narcotics. § 87(2)(b) then made his way down Euclid Avenue and towards § 87(2)(b) in Brooklyn which he stated, to Investigator Tuminello, was his home address. He alleged that two police vehicles then arrived at the location. He alleged that Sgt. Robert Martinez approached him and stated, § 87(2)(b) we would like to talk to you, it is the police.” Sgt. Martinez allegedly asked § 87(2)(b) where he was going and he responded § 87(2)(b) § 87(2)(b) alleged that Sgt. Martinez also asked him why he provided a different address during an arrest from a week prior and stated that the officers had been following him for 30 minutes. § 87(2)(b) also alleged that Sgt. Martinez asked if he had drugs on him. § 87(2)(b) was released from the location without being issued a summons.

According to the testimony of PO Yanez and PO David Quattrocchi the officers were patrolling an area they described as a drug prone location while working Anti-Crime for the 75th Precinct. PO Yanez and PO Quattrocchi both testified that they observed a hand-to-hand transaction between an individual identified by the investigation as § 87(2)(b) and a female. Both officers stated that it was dark out and that there were street lights in the area. The officers were unable to provide any specific physical information about the items they saw exchanged and testified that they did not see any form of currency. PO Yanez stated that they transmitted over the radio this information to the other members of their team which included Sgt. Martinez and PO Matthew Demaio. According to the testimony of Sgt. Martinez and PO Demaio, they both observed § 87(2)(b) § 87(2)(b) jaywalking across Pitkin Avenue and he was stopped in regards to that infraction. All of the officers testified that shortly after the stop was initiated, PO Yanez and PO Quattrocchi arrived at the incident location.

§ 87(2)(g)

While none of the officers acknowledged § 87(2)(b) being questioned about drugs, as he alleged, a “hand-to-hand” transaction was the first observation made of § 87(2)(b) by PO Yanez and PO Quattrocchi. In addition, all the officers’ statements suggest that they believed § 87(2)(b) § 87(2)(b) may have been involved in a transaction involving drugs only minutes prior to stopping him. Despite that, all the officers provided jaywalking as the justification for the stop.

The officers all testified that a Stop, Question, and Frisk Report did not have to be filled out because he was stopped for jaywalking.

As noted above, the officers did not document this stop with a Stop, Question, and Frisk Report and PO Quattrocchi was the only officer that listed a memo book entry for this stop but it did not provide any specific information as to why the stop occurred (Encl. Board Review 06). Thus no documentation of the reason for the stop was provided prior to the officers’ CCRB testimony. In addition, no summons was issued in regards to the alleged jaywalking infraction.

§ 87(2)(g)

§ 87(2)(g)

Allegation B: Abuse of Authority- Sergeant Robert Martinez detained § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) testified that, after being stopped, he was detained on Euclid Avenue for approximately one hour.

All of the officers interviewed in regards to this investigation testified that on June 24, 2016, § 87(2)(b) was arrested by their Anti-Crime team and he provided his home address as § 87(2)(b) (Encl. Board Review 04). At the time of this stop, the officers all testified that § 87(2)(b) was a person of interest in a robbery case being investigated by the 75th Precinct Detective Squad.

After § 87(2)(b) verbally provided the address § 87(2)(b) all of the officers interviewed are generally consistent with the fact that Sgt. Martinez and PO Quattrocchi left the incident location and walked to the provided address to determine whether or not § 87(2)(b) lived at the location.

All the officers offered their knowledge of a recent arrest of § 87(2)(b) as the reason they suspected he did not actually reside at the address he provided. However, they did not explain why such verification was needed following a jaywalking violation.

PO Yanez and PO Demaio testified that they remained with § 87(2)(b) and PO Yanez acknowledged running a warrant check (Encl. Board Review 05) for § 87(2)(b) which came back negative. When asked why a warrant check was conducted, PO Demaio stated that it is done whenever someone is stopped.

Sgt. Martinez and PO Quattrocchi stated that upon arriving at § 87(2)(b) two females stated that § 87(2)(b) did not live at the location. In his CCRB statement, PO Quattrocchi described one of the females as a known prostitute and the other is known for narcotics.

Both PO Demaio and PO Yanez testified that § 87(2)(b) was warned and admonished at the location for the jaywalking and was informed that he was free to leave after approximately 10-15 minutes. However, neither officer had memo book entries to corroborate their stated timeframe of § 87(2)(b)'s detainment. PO Quattrocchi was the only officer involved in the incident with memo book entries. His entries indicate that he was at § 87(2)(b) at 1:00am and resumed patrol at 2:00am.

Sgt. Martinez and PO Quattrocchi stated that § 87(2)(b) was still in the area when they returned, but that they believed he was no longer being detained.

“In evaluating the reasonableness of the investigative detention, the court uses a dual approach and examines whether the officer’s action was justified at its inception, and whether it was reasonably related in scope to the circumstances which justified the interference in the first place.” People v. Hicks, 116 A.D.2d 150 (Encl. Board Review 11). “A detention must be temporary and last no longer than is necessary to effectuate the purpose of the stop.” People v. Robinson, 282A.D.2d 75 (Encl. Board Review 12)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation C: Discourtesy- An officer spoke discourteously to § 87(2)(b)

Allegation D: Abuse of Authority- An officer threatened to damage § 87(2)(b)’s property.

In § 87(2)(b)’s unverified telephone statement on September 15, 2016, she alleged that an officer, standing outside of her apartment door, stated, “Police, open the fucking door.” In addition, an officer threatened to kick down the door.

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

[illegible]

Squad: 15

Investigator: _____
Signature Print Date

Squad Leader: _____
 Title/Signature Print Date

Reviewer: _____

Title/Signature Print Date